

REMARKS

With entry of the amendment, claims 36 and 39 are pending. Claims 37-38 are canceled herein. Claim 36 was amended to recite specific compounds by name, as supported at least by the original claims. Dependent claim 39 is newly added and is supported by the specification at least at paragraph 38 and Examples 5-10. Accordingly, no new matter has been added.

The claims stand rejected, as discussed below. Applicants respectfully traverse the rejections insofar as the Examiner may apply the rejection to amended claim 36 or new claim 39.

Rejection under 35 U.S.C. § 112, second paragraph

In the Office action, claim 36 is rejected under 35 U.S.C. § 112, second paragraph, for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 36 has been amended to provide that the compounds are administered “to a subject in need thereof.” Applicants respectfully request withdrawal of the rejection in view of the amendment.

Rejection under 35 U.S.C. § 112, first paragraph- Enablement

In the Office action, claims 36-37 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. More specifically, the Examiner stated that “while being enabling for the treatment of sepsis and septic shock with 18:0 LPC, 14:0 LPC, 18:1 LPC, and SPC, [the specification] does not reasonably provide enablement for the treatment of sepsis and septic shock with the full scope of the claimed LPC derivatives.” (Office action at pg. 4). The Examiner indicated that favorable consideration would be given to claims limited to treatment of sepsis and septic shock with 18:0 LPC, 14:0 LPC, 18:1 LPC or SPC. Not to acquiesce to the rejection, but to advance prosecution, Applicants have amended claim 36 to recite these compounds.

Applicants have also amended claim 36 to include 16:0 LPC. Relying on Yan et al., the Examiner indicated that 16:0 LPC and 12:0 LPC are ineffective in increasing survival and that 6:0 LPC actually decreases survival relative to the control. Applicants recognize that Fig. 1d of the Yan et al. reference appears to demonstrate that 6:0 LPC and 12:0 LPC are ineffective in treating sepsis. However, Applicants respectfully disagree that this figure demonstrates that 16:0 LPC is ineffective in treating sepsis. Specifically, it can be seen that for at least nine of the ten days after administration, 16:0 LPC shows a higher survival rate compared to control. While

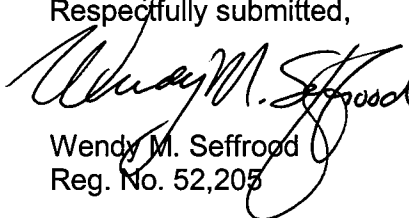
the ultimate survival rate may be the same when comparing 16:0 LPC to the control at day 10, 16:0 LPC effectively *treated* sepsis or septic shock as compared to the control on each of days 1-9 after administration. As claim 36 recites a method of *treatment* of sepsis or septic shock, Applicants need only show that there is some beneficial effect of administering the compound, and are not required to show an increase in the ultimate survival rate over a specified time period. Accordingly, Applicants respectfully submit that 16:0 LPC has been shown to effectively treat sepsis or septic shock as predicted in the application and as commensurate in scope with amended claim 36.

Based on the Examples found in the present specification and the disclosure in Yan et al., Applicants submit that one of skill in the art would readily be able to practice the claimed invention without undue experimentation using the LPC derivatives in amended claim 36 to effectively treat sepsis or septic shock. Therefore, Applicants respectfully request that the rejection under 35 U.S.C. § 112, first paragraph be withdrawn.

CONCLUSION

In view of the foregoing, reconsideration and allowance of claim 36 and consideration and allowance of claim 39 is respectfully requested. The Examiner is invited to contact the undersigned by telephone at the Examiner's convenience should any issues remain with respect to the Application.

Respectfully submitted,



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